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Development (195) Department.

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~~U.O.~~ No. Letter	5167
Dated	19 1c 48

[Despatch Abstract.]

LABOUR - International Labour Conference - Draft convention and recommendation on the 'Protection of Wages' - Comments of the Madras Government - Communicated to the Government of India.

GOVERNMENT OF INDIA
MINISTRY OF LABOUR.

No.LC.-22(2)/48., Dated New Delhi, the 13th September'48.

From

S.P.Saksena, Esqu, M.A., B.Com.,
Director (Labour Conferences).

To

The Secretary to the Government of Madras,
Public Works Department,
Madras.

Subject: Protection of Wages -- Item Seventh on the agenda of the 32nd Session of the International Labour Conference.

Sir,

The 32nd Session of the International Labour Conference will be held in June, 1949, at Geneva. One of the items on the agenda of the Conference is the question of protection of wages with a view to final decision on a Convention and Recommendation on the subject. The International Labour ~~Conference~~ Office report containing the draft text of the proposed Convention and Recommendation has been received and I am directed to forward a copy of the same. It is requested that the comments of the Provincial Governments, on the proposed texts may kindly be communicated to this Ministry by the 20th October, 1948, as the reply of the Government of India is to reach the International Labour ~~Conference~~ Office, not later than the 11th December, 1948.

2. Since a very limited number of copies has been received by Air Mail, it is ~~xgx~~ regretted that only one copy is being forwarded for the use of your Government. When more copies are avilable the Provincial Governments will be supplied with two additional copies of the same.

Yours faithfully,

Sd. S.P.Saksena,
Director (Labour Conferences).

D.A.Reffered To.

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p.t.o.

DEVELOPMENT DEPARTMENT.

BY AIR MAIL. EXPRESS.
Letter Ms.No. 5167,dated 19-10-1948.

To

The Director,
Labour Conference,
New Delhi.

Sir,

Sub: Labour - International Labour ~~Conferences~~ office - Draft convention and recommendation on the 'Protection of Wages' - ~~Connection~~/of the /Commence Madras Government - Communicated to the Government of India.

Ref: Your letter No. L.C.22(2)/48,dated 13-9-1948.

I am directed to state that the Government of Madras consider the draft convention and Recommendation ~~convening~~ the "protection of wages" received with the Concerning letter cited generally acceptable subject to the following remarks:--

The Government presume that article 6 of the draft convention will not affect the provisions of the Payment of Wages Act under which certain deductions are authorised, in view of article 8.

In paragraph 8 of the proposed Recommendation, concerning ~~concerning~~ Wages Statements and Payroll Records' in addition to the particulars specified, details of the category to which the workers belong may also be included as failure to do so has been a frequent cause of dispute between employers and workers.

Yours faithfully,

Sd. x x x
Secy. to Government.

Copy to the Commissioner of Labour.

p.t.o.

I

PROPOSED CONVENTION CONCERNING THE PROTECTION OF WAGES.

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals concerning the protection of wages, which is the seventh item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this day of of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Protection of Wages Convention, 1949:

ARTICLE 1.

In this Convention, the term "wages" means remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and payable in virtue of a written or unwritten contract of employment or of national laws or regulations by an employer to an employed person for work done or services rendered.

ARTICLE 2.

Categories of persons whose conditions of employment are such that the application to them of all or any of the provisions of this Convention would be inappropriate may be excluded by the competent authority from the application of all or any of the provisions thereof.

ARTICLE 3.

1. Wages shall be paid only in legal tender, and payment in the form of promissory notes, vouchers, coupons or any other form alleged to represent legal tender shall be prohibited.

2. The competent authority may permit the payment of wages to be made by bank cheque or postal cheque or money order in cases in which payment in this manner is customary or necessary because of special circumstances, or where a collective agreement or arbitration award so provides, or, where not so provided, with the consent of the worker concerned.

ARTICLE 4.

1. National laws or regulations, collective agreements or arbitration awards may authorise the partial payment of wages in the form of allowances in kind in

industries....

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industries or occupations in which payment in the form of such allowances is customary or desirable because of the nature of the industry or occupation concerned.

2. In cases in which partial payment of wages in the form of allowances in kind is authorised, appropriate measures shall be taken to ensure that--

(a) such allowances are appropriate for the personal use and benefit of the worker and his family; and

(b) the value attributed to such allowances is fair and reasonable.

ARTICLE 5.

Wages shall be paid directly to the worker concerned except as may be otherwise provided by national laws or regulations, collective agreement or arbitration award or where the worker concerned has agreed to the contrary.

ARTICLE 6.

Employers shall be prohibited from limiting in any manner the freedom of the worker to dispose of his wages.

ARTICLE 7.

1. Where works stores or similar service are established in connection with an undertaking for the sale of commodities to the workers, the workers concerned shall be free from any coercion to make use of such stores or services.

2. In cases where access to other stores or services is not possible because of the location of the work, the competent authority shall either take appropriate measures to ensure that no financial profit accrues to the employer from the operation of such stores or services or take appropriate measures to ensure the sale of goods at fair and reasonable prices.

ARTICLE 8.

1. Deductions from wages shall be permitted only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.

2. Workers shall be informed, in the manner deemed most appropriate by the competent authority, of the conditions under which and the extent to which such deductions may be made.

ARTICLE 9.

Deductions from wages in the form of direct or indirect payments for the purpose of obtaining or retaining employment made by a worker to an employer or his representative or to any intermediaries (such as labour contractors or recruiters) shall be prohibited.

ARTICLE 10.

1. Wages shall be subject to attachment or seizure only in a manner and within limits prescribed by national laws or regulations.

2. Wages shall be protected against attachment or seizure to the extent deemed necessary for the maintenance of the worker and his family.

ARTICLE 11.

1. In the event of the bankruptcy or judicial liquidation of an undertaking, the workers employed therein shall be treated as privileged creditors either as regards wages due to them for service rendered during such a period prior to the bankruptcy or judicial liquidation as may be prescribed by national laws or regulations, or as regards wages up to a prescribed amount as may be determined by national laws or regulations.

2. Wages constituting a privileged debt shall be paid in full before ordinary creditors may establish any claim to a share of the assets.

3. The relative priority of wages ~~consisting~~ constituting a priveleged debt and other privelged debts shall be determined by national laws or regulations.

ARTICLE 12.

1. Wages shall be paid regularly at intervals prescribed by national laws or regulations or fixed by collective agreement or abbitration award.

2. Upon the termination of a contract of employment, a final settlement of all wages due shall be effected in accordance with national laws or regulations, collective agreement or arbitration award or, in the absence of any applicable law, regulation, agreement or award, within a reasonable period of ~~ha~~ time having regard to the terms of the contract.

ARTICLE 13

1. The payment of wages where made in cash shall be made on working days only and at or near the workplace, except where other arrangements are considered more appropriate.

2. Payment of wages in taverns or other similar establishments and, where necessary to prevent abuse, in shops or stores for the retail sale of merchandise and in places of amusement shall be prohibited except in the case of persons employed therein.

ARTICLE 14.

Effective measures shall be taken to ensure that workers are informed, in an appropriate and easily understandable manner:

(a) before they enter employment and when any changes take place, of the conditions in respect of wages under which they are employed; and

(b) at the time of each payment of wages, of the particulars of their wages for the pay period concerned.

ARTICLE 15.

The laws or regulations giving effect to the provisions of this Convention shall---

(a) be brought to the notice of all persons concerned;

(b) define the persons responsible for compliance therewith;

(c) prescribe adequate penalties for any violation thereof;

(d) provide for the maintenance, in all appropriate cases, of adequate records in an approved form and manner

ARTICLE 16.

The provisions of this Convention may be applied by national laws or regulations, collective agreements, arbitration awards, or other appropriate arrangements which ensure effective enforcement thereof.

ARTICLE 17.

There shall be included in the annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation full information concerning the measures by which effect is given to the provisions of this Convention.

ARTICLE 18.

1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of this Convention either generally or with such exceptions in respect of particular undertakings or occupations as it thinks fit.

2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any areas in respect of which it proposes to have recourse to the provisions of the present article and shall give the reasons for what it proposes to have recourse thereto; no Member shall, after the date of its first annual report, have recourse to the provisions of the present article except in respect of areas so indicated.

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3. Each Member having recourse to the provisions of the present article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of the present article.

ARTICLE 19.

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate--

(a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;

(b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications:

(c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(d) the territories in respect of which it reserves its decision pending further consideration of the position.

2. The undertakings referred to in sub-paragraphs (a) and (b) of~~and~~ paragraph 1 of this article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of sub-paragraphs (b), (c) ~~or~~ (d) of paragraph 1 of this article.

4. Any Member may, at any time~~t~~ at which the Convention is subject to denunciation in accordance with the provisions of Article x, communicate to the Director-General a declaration modifying in any other respect the terms of any former delcaration and stating the present position in respect of such territories as it may specify.

ARTICLE 20.

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraphs 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the delcaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.

2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

3. The Member, Mmmbers or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article x-X, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

II

PROPOSED RECOMMENDATION CONCERNING THE PROTECTION OF WAGES

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-Second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals concerning the protection of wages, which is the seventh item on the agenda of the session, and

Having decided that these proposals shall take the form of a Recommendation supplementing the Protection of Wages Convention, 1949,

adopts this day of of the year one thousand nine hundred and forty-nine the following Recommendations which may be cited as the Protection of Wages Recommendation, 1949;:

The Conference recommends that each Member should apply the following provisions as rapidly as national conditions allow and report to the International Labour Office as requested by the Governing Body concerning the measures taken to give effect thereto.

I. DEDUCTIONS FROM WAGES.

1. All necessary measures should be taken to limit deductions from wages to the extent deemed to be necessary to safe guard the maintenance of the worker and his family.

2 (1) Deductions from wages for the reimbursement of loss or or damage to the products, goods or installations of the employer should be authorised only when the loss or damage has been caused intentionally or through grave negligence on the part of the worker concerned.

(2) The amount of such deductions should be fair and should not exceed the actual amount of the loss or damage.

(3) Before a decision to make such a deduction is take.., the worker concerned should be given a reasonable opportunity to show cause why the deduction should not be made.

3. Appropriate measures should be taken to limit deductions from wages in respect of tools, materials or equipment supplied by the employer to cases in which such deductions---

(a) are a recognised custom of the trade or occupation concerned; or

(b) are provided for by collective agreement or arbitration award; or

(c) are otherwise authorised by a procedure recognised by national laws or regulations.

II. PERIODICITY OF WAGE PAYMENTS.

4. The maximum intervals for the payment of wages to be fixed by national laws or regulations, collective agreement or arbitration award, in accordance with paragraph 1 of Article 12 of the Protection of Wages Convention, 1949, should ensure that wages are paid not less often than--

(a) twice a month in the case of workers whose wages are calculated by the hour, day or week; and

(b) once a month in the case of employed persons whose remuneration is fixed on a monthly or annual basis.

5. (1) In the case of workers whose wages are calculated on a piece-work or output basis, the maximum intervals for the payment of wages should, so far as possible, be so fixed as to ensure that wages are paid not less often than twice a month.

(2) In the case of workers employed to perform a task the completion of which requires more than a fortnight, and in respect of whom intervals for the payment of wages are not otherwise fixed by collective agreement or arbitration award, appropriate measures should be taken to ensure that-

(a) payments are made on account, not less often than twice a month, in proportion to the amount of work completed; and

(b) final settlement is made within a fortnight of the completion of the task.

6. (1) In the case of workers whose remuneration consists in whole or in part of commissions on sales or a share of profits, appropriate measures should be taken to ensure that a settlement of accounts is made at least once a year.

(2) Where the whole or a substantial proportion of the remuneration of the workers concerned consists of commission on sales or a share of prfits, appropriate measures should be taken to ensure that regular payments of an amount fixed in accordance with a recognised procedure are made not less often than once a month.

III. NOTIFICATION TO WORKERS OF WAGE CONDITIONS.

7. The details of the wages conditions which should be brought to the knowledge of the workers in accordance with Article 14 (a) of the Protection of Wages Convention, 1949, should include, wherever appropriate, particulars, concerning---

(i) the rates of wages payable;

(ii) the method of calculation;

(iii) the periodicity of wage payments;

(iv) the place of payment; and

(v) the conditions under which deductions may be made.

IV. WAGES STATEMENTS AND PAYROLL RECORDS.

8. In all appropriate cases, workers should be informed with each payment of wages, of the following particulars relating to the pay period concerned, in so far as such particulars may be subject to change:

(a) the gross amount of wages earned;

(b) any deductions which may have been made, including the reasons therefor and the amount thereof; and

(c) the net amount of wages due.

9. Employers should be required in appropriate cases to maintain records showing, in respect of each worker employed, the particulars specified in the preceding paragraph.

V. ASSOCIATION OF WORKERS IN THE ADMINISTRATION OF WORKS STORES.

10. Appropriate measures should be taken to encourage arrangements for the association of representatives of the workers concerned, and more particularly members of works welfare committees or similar bodies where such bodies exist, in the general administration of works stores or similar services established in connection with an undertaking for the sale of commodities to the workers therof.

/True copy,

R. Thiagarajan 2-2-54

for Superintendent,
Madras Record Officce.

29/1/54 28

PSR. 3-8-53.